IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.1044 OF 2005
IN
NOTICE OF MOTION NO.3394 OF 2004
IN
SUIT NO.3387 OF 2004

Ankit Securities & Finance
Company Private Limited .. Appellant

v/s.

Mr.Krishna Kumar Birla
carrying on business in the firm
name and style of M/s.Birla
Investment Services. .. Respondent

Ms.A.R.Lambay i/by M/s.Lambay & Co. for the appellant.

Mr.Chirag Balsara with Mr.Madhur Rai i/by M/s.Wegandhi Shah & Himayatullah for the respondent.

CORAM : R.M.LODHA AND
D.G.KARNIK, JJ.

DATED : 29th November, 2005

P.C.

Heard Ms.A.R.Lambay, the learned counsel for the appellant and Mr.Chirag Balsara, the learned counsel for the respondent.

2. The only assets regarding which the plaintiff-appellant prays for an order of attachment before judgment are shares which have already been attached in the execution of the decree/award obtained by the present appellant against the respondent. These shares admittedly, are with the Sheriff of Bombay who has been directed by this court to dispose of the same in satisfaction of the decree obtained by the present appellant.

3. In the circumstances, the impugned order does not call for any interference. However, it is clarified that upon satisfaction of the decree/award dated 14th May, 2002, if the balance proceeds from the sale of these shares or the balance shares are returned to the respondent (original defendant) by the Sheriff, the appellant shall be at liberty to apply for an appropriate interim order and in that situation the court shall consider such application uninfluenced by the impugned order.

4. With the aforesaid observations, appeal is dismissed in limine.

(R.M.LODHA, J.)

(D.G.KARNIK, J.)